



Approved

MINUTES

CITY OF DUBUQUE ZONING BOARD OF ADJUSTMENT REGULAR SESSION

4:00 p.m., Thursday, August 27, 2009

City Council Chamber, Historic Federal Building

Board Members Present: Chairperson Mike Ruden; Board Members Bill Gibbs, Heath Hutchinson and Randy Klauer; Staff Members Guy Hemenway and Wally Wernimont.

Board Members Excused: Board Member Jeff Cremer.

AFFIDAVIT OF COMPLIANCE: Staff presented an Affidavit of Compliance verifying the meeting was being held in compliance with the Iowa Open Meetings Law.

CALL TO ORDER: The meeting was called to order by Chairperson Ruden at 4:05 p.m.

MINUTES & NOTICES OF DECISION: Motion by Klauer, seconded by Gibbs to approve the minutes of the July 23, 2009 meeting. Motion carried by the following vote: Aye – Klauer, Hutchinson, Gibbs and Ruden; Nay - None.

Chairperson Ruden noted that there are only four Board members present and that approval for applicant's requests requires three positive votes. He said that applicants could choose to table their request until the next meeting.

SPECIAL EXCEPTIONS

DOCKET 34-09: Application of Cory & Casey Thein for a special exception for property located at 351 Winona Street to build a 29 foot by 34 foot detached garage 0 feet from the south side property line, 6 feet required, for a total of 1,226 square feet of accessory structures, 1,000 square feet maximum permitted, in an R-2 Two-Family Residential zoning district.

Corey Thein, 351 Winona Street, presented photos and a site diagram for his request to the Board. He noted that the garage location has been modified, moving it from 6 feet to 18 feet from the west side property line. He said that the two lots he owns have been consolidated into one lot. He said that the garage will be similar in design to the house. He discussed photos of the property and sketches of the proposed garage. He discussed the dimensions of the garage and noted that one portion of the alley right-of-way is 15 feet wide and the other is 30 feet wide. He said that, although the garage will be built to the property line, it still will sit back approximately 10 feet from the paved portion of the alley. He said that he has a 10 foot by 20 foot storage building on the site that he would like to keep.

Board members discussed the orientation of the garage and the alley configuration. Board member Klauer asked if the garage could be moved closer to the house. Mr. Thein said that he would like to maintain as much yard area as possible.

Staff Member Hemeway presented the staff report. He noted that the lots have been consolidated and that the parcel has been surveyed with survey stakes in place. He recommended that, because the applicant has modified his request by moving the garage 18 feet from the property line instead of 6 feet, Board members make the change a condition of approval. He said that repositioning the garage further to the east would move it out of the visibility triangle and improve the visibility at the alley corner. He noted that, in all likelihood, there would not be enough space for a car to park in front of the garage because it would block a significant portion of the paved part of the alley.

Board members discussed the request and felt that it was appropriate.

Motion by Klauer, seconded by Gibbs, to approve the request with the condition that the garage be placed 18 feet from the west side property line. Motion carried by the following vote: Aye – Klauer, Hutchinson, Gibbs and Ruden; Nay – None.

DOCKET 35-09: Application of James Hoppman for a special exception for property located at 2098 Harpy Eagle Court to build a deck 4 feet from the rear property line, 10 feet required, in a PR Planned Residential zoning district.

James Hoppman, 2098 Harpy Eagle Court, said he is asking to build a small deck 4 feet from the rear property line, when 10 feet is required. He said that his deck will encroach within 4 feet of a city park, not on adjacent private property.

Staff Member Wernimont noted that the park also will accommodate a detention basin.

Staff Member Wernimont discussed the setback requirements for the PR Planned Residential zoning district. He said that the house will meet all other required setbacks and that there will be a City park behind the property.

Board members discussed the request and felt that it was appropriate.

Motion by Klauer, seconded by Gibbs, to approve the special exception request, as submitted. Motion carried by the following vote: Aye – Klauer, Hutchinson, Gibbs and Ruden; Nay – None.

CONDITIONAL USE PERMITS:

DOCKET 36-09: Application of University of Dubuque / Westminster Presbyterian Church for a conditional use permit for property located at 2155 University Avenue to open a licensed child care center with 27 children and 6 employees on the maximum shift, in an R-1 Single-Family Residential zoning district.

Keith Wipperfurth, Director of Construction for the University of Dubuque, said that the University of Dubuque's intention is to locate a child care center at Westminster Presbyterian Church. He said that the child care center will be temporary and will be moved to the new facility that will be located on McCormick Street.

Chairperson Ruden asked if the child care center will discontinue operating at the church when the new child care center opens. Mr. Wipperfurth acknowledged that that is the University's intention for the child care center.

Board Member Klauer asked if there would be any conflict between existing church services and activities and the child care center. Mr. Wipperfurth introduced Sharon Nichols, representing Westminster Presbyterian Church. She said that the church services are on Wednesday nights and Sundays and that there should be very little conflict between the child care's operation and church activities other than an occasional funeral.

Staff Member Hemenway outlined the staff report. He explained that the licensed child care center will be located on the church's three acre campus with 96 parking spaces, adequate room for drop off and pick up and four accesses onto adjacent streets. He noted that one neighbor had phoned and expressed concerns with the potential for traffic. He stated that the Zoning Board of Adjustment previously had approved a conditional use permit for a licensed child care center for the University of Dubuque on McCormick Street. He said that he has received a preliminary site plan, but has not yet received the full site plan for the child care center.

Chairperson Ruden asked if the child care center could continue to operate under different management if the University of Dubuque moves out of the Westminster Presbyterian Church location.

Staff Member Hemenway noted that the conditional use runs with the property. He said that if another provider chose to re-open the child care center after the University moves theirs to the new location that it would be permitted. He said any new provider would have to meet the provisions of the original request—which is to have a maximum of 27 children and 6 employees. He said it is the Board's charge to determine whether they feel the proposed child care center meets all of the requirements outlined in the criteria established for granting a conditional use. He said these requirements include provision of adequate access, drop off/pick up area, and employee parking. He said the Board can also consider how the proposed child care center will impact the adjacent residential properties.

Board Member Klauer asked if the Board can require that the use be temporary. Staff Member Hemenway noted that this is possible. Board members discussed the potential for creating the child care center as a temporary use.

Several Board members felt that the child care center is appropriate at this location. They said they felt that the proposal meets all the criteria for granting a conditional use; therefore, a time limit on the child care center is not necessary.

Motion by Klauer, seconded by Gibbs, to approve the request for the conditional use permit.

Motion carried by the following vote: Aye – Klauer, Hutchinson, Gibbs and Ruden; Nay – None.

VARIANCE REQUESTS:

DOCKET 37-09: Application of Michelle Mihalakis for a variance for property located at 2160 Elm Street to open an 18-room SRO with a deficit of 7 off-street parking spaces, 14 required, in an OR Office Residential zoning district.

Michelle Mihalakis, 2160 Elm Street, discussed the variance history for her property. She said that after a land survey was conducted an encroachment by an adjacent structure was discovered. She said that after the lot was reconfigured it was too small to accommodate a handicap-accessible parking stall; therefore, a one-space parking variance is necessary. She said that she does not want to pave the entire yard, but would like to maintain some green space and landscaping. She said that parking is not an issue at her other SRO (Mannasah House). She said she would like to landscape the property creating edible landscaping and a rain water harvesting area.

Staff Member Wernimont outlined the staff report noting the history of the property. He said that the Board had already approved a variance for the property, but that the architectural changes to the structure and the new lot configuration resulted in the removal of one parking space. He discussed parking in the area noting that the Bee Branch project will remove residences, reduce demand and provide additional on-street parking. He said that the Engineering Department has approved the lot design.

Board members discussed the request and felt it was appropriate.

Motion by Klauer, seconded by Gibbs, to approve the variance request, as submitted. Motion carried by the following vote: Aye – Klauer, Hutchinson, Gibbs and Ruden; Nay – None.

DOCKET 38-09: Application of Carfaro Company / Sign Productions for a variance for property located at 555 Kennedy Road (Kennedy Mall) to install 4 signs on a tenant space, 2 signs maximum permitted, in an PC Planned Commercial zoning district.

Tony Menke, representing Sign Productions, 3335 7th Avenue, Marion, Iowa, explained the request to the Board. He said that the business will exceed the number of signs allowed by the ordinance; however, the square footage will be below what is permitted. He said that the restaurant would like to place awnings on two sides of the buildings and have one main wall-mounted sign.

Staff Member Hemenway reviewed the staff report. He discussed the square footage of the signs noting that the main wall-mounted would be 64 square feet in area with two 14 square feet canopies and one 11 ½ square foot canopy. He said this equals 103 ½ square feet of area where 200 square feet is permitted. He discussed the area noting that the building is set back approximately 300 feet from the adjacent public rights-of-way and surrounded by commercial development.

Board members discussed the request and felt it is appropriate.

Motion by Gibbs, seconded by Hutchinson, to approve the variance request, as submitted. Motion carried by the following vote: Aye – Hutchinson, Gibbs and Ruden; Nay – None; Abstain – Klauer.

ITEMS FROM PUBLIC:

Arline Dieterich, 1506 Alta Place, noted that she has lived in the Westminster Church neighborhood for 86 years. She said that she has no serious concerns with the University of Dubuque's request to place a child care center at the church. She said that she has spoken with various members of Westminster Church, the University of Dubuque, a City Council member and City staff about the

proposal. She said that Westminster is a good neighbor and that they keep their grounds immaculate. She said that, although she supports the request to create a licensed child care center in the church, she would like to go on record stating that the child care center should be temporary. She said that she did not believe that the new child care facility proposed on McCormick Place would be finished this year as promised.

Staff Member Hemenway explained that the University of Dubuque's request had been reviewed earlier in the meeting and that no condition requiring a time limit for the licensed child care center had been placed on its approval.

Ms. Dieterich said that she was disturbed by this information.

Mr. Hemenway noted that he will provide a copy of the minutes of the meeting for Ms. Detrich to review.

ADJOURNMENT: The meeting adjourned at 5:00 p.m.

Respectfully submitted,



Kyle L. Kritz, Associate Planner

Adopted—August 27, 2009